

(E) A person located in, or operating under a license issued by, a jurisdiction that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member, with which designation the United States representative to the group or organization concurs; and

(F) A person located in, or operating under a license issued by, a jurisdiction that has been designated by the Secretary of the Treasury pursuant to 31 U.S.C. 5318A as warranting special measures due to money laundering concerns;

(iii) That the operator is in compliance with all applicable provisions of subchapter II of chapter 53 of title 31, United States Code and this part;

(2) Designate a compliance officer who will be responsible for assuring that:

(i) The anti-money laundering program is implemented effectively;

(ii) The anti-money laundering program is updated as necessary to reflect changes in risk factors or the risk assessment, current requirements of part 103, and further guidance issued by the Department of the Treasury; and

(iii) Appropriate personnel are trained in accordance with paragraph (c)(3) of this section;

(3) Provide for education and training of appropriate personnel concerning their responsibilities under the program; and

(4) Provide for an independent audit to monitor and maintain an adequate program. The scope and frequency of the audit shall be commensurate with the risks posed by the persons authorized to issue or accept the operator's credit card. Such audit may be conducted by an officer or employee of the operator, so long as the reviewer is not the person designated in paragraph (c)(2) of this section or a person involved in the operation of the program.

[67 FR 21126, Apr. 29, 2002]

§ 103.170 Exempted anti-money laundering programs for certain financial institutions.

(a) *Exempt financial institutions.* Subject to the provisions of paragraphs (c)

and (d) of this section, the following financial institutions (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) are exempt from the requirement in 31 U.S.C. 5318(h)(1) concerning the establishment of anti-money laundering programs:

(1) An agency of the United States Government, or of a State or local government, carrying out a duty or power of a business described in 31 U.S.C. 5312(a)(2); and

(2) [Reserved]

(b) *Temporary exemption for certain financial institutions.* (1) Subject to the provisions of paragraphs (c) and (d) of this section, the following financial institutions (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) are exempt from the requirement in 31 U.S.C. 5318(h)(1) concerning the establishment of anti-money laundering programs:

(i) Dealer in precious metals, stones, or jewels;

(ii) Pawnbroker;

(iii) Loan or finance company;

(iv) Travel agency;

(v) Telegraph company;

(vi) Seller of vehicles, including automobiles, airplanes, and boats;

(vii) Person involved in real estate closings and settlements;

(viii) Private banker;

(ix) Insurance company;

(x) Commodity pool operator;

(xi) Commodity trading advisor; or

(xii) Investment company.

(2) Subject to the provisions of paragraphs (c) and (d) of this section, a bank (as defined in §103.11(c)) that is not subject to regulation by a Federal functional regulator (as defined in §103.120(a)(2)) is exempt from the requirement in 31 U.S.C. 5318(h)(1) concerning the establishment of anti-money laundering programs.

(3) Subject to the provisions of paragraphs (c) and (d) of this section, a person described in §103.11(n)(7) is exempt from the requirement in 31 U.S.C. 5318(h)(1) concerning the establishment of anti-money laundering programs.

(c) *Limitation on exemption.* The exemptions described in paragraphs (a)(2) and (b) of this section shall not apply to any financial institution that is otherwise required to establish an anti-money laundering program by this subpart I.

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(d) *Compliance obligations of deferred financial institutions.* Nothing in this section shall be deemed to relieve an exempt financial institution from its responsibility to comply with any other applicable requirement of law or regulation, including title 31 of the U.S.C. and this part.

[67 FR 21113, Apr. 29, 2002, as amended at 67 FR 67549, Nov. 6, 2002; 67 FR 68935, Nov. 14, 2002]

SPECIAL DUE DILIGENCE FOR CORRESPONDENT ACCOUNTS AND PRIVATE BANKING ACCOUNTS

§ 103.175 Definitions.

Except as otherwise provided, the following definitions apply for purposes of §§ 103.176 through 103.190:

(a) *Attorney General* means the Attorney General of the United States.

(b) [Reserved]

(c) *Certification* and *Recertification* mean the certification and recertification forms described in Appendices A and B, respectively, to this subpart.

(d) *Correspondent account.* (1) The term *correspondent account* means:

(i) [Reserved]

(ii) For purposes of §§ 103.177 and 103.185, a correspondent account is an account established by a covered financial institution for a foreign bank to receive deposits from, to make payments or other disbursements on behalf of a foreign bank, or to handle other financial transactions related to the foreign bank.

(2) For purposes of this definition, the term *account*:

(i) Means any formal banking or business relationship established to provide regular services, dealings, and other financial transactions; and

(ii) Includes a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit.

(e) *Correspondent relationship* has the same meaning as correspondent account for purposes of §§ 103.177 and 103.185.

(f) *Covered financial institution* means:

(1) [Reserved]

(2) For purposes of §§ 103.177 and 103.185:

(i) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(ii) A commercial bank or trust company;

(iii) A private banker;

(iv) An agency or branch of a foreign bank in the United States;

(v) A credit union;

(vi) A thrift institution;

(vii) A corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*); and

(viii) A broker or dealer registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

(g) *Foreign bank.* The term *foreign bank* shall have the meaning provided in § 103.11(o).

(h) [Reserved]

(i) *Foreign shell bank* means a foreign bank without a physical presence in any country.

(j) [Reserved]

(k) [Reserved]

(l) *Owner.* (1) The term *owner* means any person who, directly or indirectly:

(i) Owns, controls, or has power to vote 25 percent or more of any class of voting securities or other voting interests of a foreign bank; or

(ii) Controls in any manner the election of a majority of the directors (or individuals exercising similar functions) of a foreign bank.

(2) For purposes of this definition:

(i) Members of the same family shall be considered to be one person.

(ii) The term *same family* means parents, spouses, children, siblings, uncles, aunts, grandparents, grandchildren, first cousins, stepchildren, stepsiblings, and parents-in-law, and spouses of any of the foregoing.

(iii) Each member of the same family who has an ownership interest in a foreign bank must be identified if the family is an owner as a result of aggregating the ownership interests of the members of the family. In determining the ownership interests of the same family, any voting interest of any family member shall be taken into account.

(iv) *Voting securities or other voting interests* means securities or other interests that entitle the holder to vote for